7-13-06.

AF/ (handwritten)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

IN RE: BONNSTETTER, Bill J., et al.	)
	) APPEAL NO. _____
SERIAL NO: 09/760,145	)
	)
FOR: NETWORK BASED DOCUMENT	)
DISTRIBUTION METHOD	)
	) BRIEF ON APPEAL
FILED: January 12, 2001	)
	)
GROUP ART UNIT: 2152	)

To the Commissioner of Patents and Trademarks
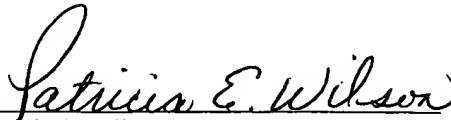Mail Code Appeal Brief - Patents
P. O. Box 1450
Alexandria, VA 22313-1450

Dear Sirs:

Please enter the following Brief on Appeal into the record.

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TABLE OF CONTENTS

I.   INTRODUCTION

This is an appeal of the final rejection dated January 12, 2006, rejecting claims 1-40. The appealed claims 1-40 are set forth in an attached Appendix.

Following a Final Rejection dated January 12, 2006, Appellant filed an Amendment After Final Rejection and an accompanying 37 C.F.R. § 1.131 Declaration of prior invention in the United States to overcome the cited U.S. Patent No. 6,853,975 to Dirksen. Applicant believes the Examiner improperly used a Final Rejection following the first citing of the Dirksen reference. And the Examiner improperly denied entry of the § 1.131 Declaration to remove Dirksen as prior art in an Advisory Action dated May 5, 2006. Therefore Appellant filed a 37 C.F.R. § 1.181(3) Petition to the Commissioner on May 12, 2006 requesting entry into the record of the § 131 Declaration to remove Dirksen as a reference. The Examiner called counsel of record Edmund J. Sease on May 16, 2006 to say the declaration was being entered but the rejection maintained. In response Counsel indicated the petition would be withdrawn upon indication of entry of the Rule 131 declaration in the record. As of this date, no paper has been sent confirming entry. Thus, Appellant does not know the current status of this situation, but presumes the Rule 131 declaration is of record.

II.   REAL PARTY IN INTEREST

The real party of interest in the present appeal is the Assignee, Target Training International Performance Systems, Ltd., 16020 N. 77th Street, Scottsdale, Arizona 05260, by an Assignment from the co-inventors recorded May 11, 2001 at Reel/Frame 011799/0047.

1

III. RELATED APPEALS AND INTERFERENCES

There are no related appeals or interferences with the present application. However, as noted above in the introduction, there is an outstanding 37 C.F.R. § 1.181 Petition to the Commissioner to allow entry into the record of a 37 C.F.R. § 1.131 Declaration of prior invention in the United States to ante-date a cited patent reference, and thus remove the reference as prior art. Based upon a telephone conversation with the Examiner on May 17, 2006 this may be moot.

IV. STATUS OF CLAIMS

Claims 1-39 were originally filed in this application dated January 12, 2001. New claim 40 was added to the application in an amendment dated October 27, 2005. Therefore, claims 1-40 are currently pending in the present application.

V. STATUS OF AMENDMENTS

An Amendment After Final Rejection was filed on April 12, 2006. No changes to the claims were made in that amendment.

As described above, the Amendment After Final Rejection filed on April 12, 2006, included with the Amendment a 37 C.F.R. § 1.131 Affidavit of prior invention to remove U.S. Patent No. 6,853,975 to Dirksen as a prior art reference. This Amendment was not initially entered by the Examiner. Thus, Appellant filed a Petition under 37 C.F.R. § 1.181 to the Commissioner on May 12, 2006 to enter the Amendment After Final and the § 131

Affidavit to remove Dirksen as a reference and thus causing all rejections to the pending

claims to fail. Neither the Examiner nor the Commissioner has acted upon the § 181 Petition

at this time. A Notice of Appeal was also timely filed on May 12, 2006. It is believed the

PTO position is the Rule 131 is entered of record but the rejection still stands.

VI. SUMMARY OF CLAIMED SUBJECT MATTER

The claims of the present application generally relate a method of distributing and

collecting documents over a network, such as the Internet. Employee evaluation companies

generally sell employee evaluation forms and employee evaluation systems to other

businesses to evaluate their employees. These forms are designed to evaluate potential and

existing employees and supervisors based on traits which "good" employees and supervisors

in the given job usually possess. Traditionally these forms are sold to customers or

businesses as printed paper forms. This creates distribution expenses and difficulty. The

present invention eliminates this difficulty by allowing the evaluation documents to be

distributed and responded to electronically via a computerized network, such as the Internet.

A. Independent Claim 1

Claim 1 relates to a method of evaluation or assessment of persons, jobs or

employees. This method is performed over an electronic network by assigning a password

for a respondent and initializing a set of permissions relative to the password. (Specification,

page 5, line 29 - page 7, line 10; Figures 1-3). The passwords and set of permissions relative

to the password allow a respondent to complete an assessment instrument which is provided

3

to the respondent after verification of the password. (Specification, page 8, lines 16-26, page 17, lines 10-22; Figure 15 222). The responses to the assessment instrument are received from the respondent and the responses are processed into an assessment report. (Specification, page 17, lines 23-34; Figure 15). Finally, the assessment report is electronically sent to one or more locations authorized by the set of permissions associated with the password. (Specification, page 16, line 32 - page 17, line 34; Figure 15).

B.   Independent Claim 28

Claim 28 relates to a method for managing a distribution of electronic assessment documents over a wide area computer network by providing an electronic assessment instrument for completion by respondents. (Specification, page 8, lines 16-26, page 17, lines 10-22; Figure 15). The method of claim 28 also requires assigning a password to an entity wherein the password has different levels of rights and the passwords allow initializing permissions relative to the password based on the level of rights for the entity wherein at least one respondent password has permission based on the level of rights for a respondent. (Specification, page 5, line 27 - page 7, line 10; Figure 1-3). The method allows an entity access to a computer website on a global computer network and enables the initialized permissions for the entity to use the method on a global computer network. (Specification, page 5, line 27 - page 6, line 9; Figure 1). The method then provides an assessment instrument to the respondent where the assessment instrument gauges an individual potential employee's suitability with regard to a particular job, an individual existing employee's suitability or performance with regards to a particular job, or an individual boss's

performance with regards to a particular job. (Specification, page 8, lines 16-26, page 17, lines 10-22; Figure 15). The respondents' responses to the assessment instrument are then received through the wide area network and processed into an assessment report. (Specification, page 17, lines 10-22; Figure 15). And finally, the assessment report is sent to one or more locations which are authorized by the permissions relative to the passwords. (Specification, page 16, line 32 - page 17, line 34; Figure 15).

C.   Independent Claim 35

Claim 35 relates to a system for managing assessments having a plurality of terminals adapted to access a wide area network, a central server, software associated with the central server for administering a website and providing permissions. (Specification, page 5, line 29 - page 6, line 16; Figure 1). A password is used on the system where the password has a set of permissions which correlate to a respondent for an assessment survey where the survey gauges an individual potential employee's suitability with regard to a particular job, an individual's suitability or performance, with regards to a particular job, or an individual boss's performance with regards to a particular job and the password has a set of permissions correlated to an entity interested in the respondent's responses to the assessment survey. (Specification, page 5, line 29 - page 7, line 10; Figures 1-3).

D.   Independent Claim 40

Claim 40 relates to a method of evaluation or assessment of persons, jobs, or employees by assigning a password for a respondent and initializing a set of permissions relative to the password. (Specification, page 5, line 27 - page 7, line 10; Figures 1-3). The

5

method next requires providing an assessment instrument which gauges an individual potential employee's suitability with regards to a particular job, an individual existing employee's suitability or performance with regards to a particular job, or an individual boss's performance with regards to a particular job to a respondent, wherein the assessment instrument is given after verification of a password by the respondent. (Specification, page 8, lines 16-26, page 17, lines 10-22; Figure 15). The respondent responds to the assessment instrument and the responses are received and processed into an assessment report. (Specification, page 17, lines 10-22; Figure 15). And finally, the assessment report is sent out to one or more locations which are authorized by the set of permissions associated with the password. (Specification, page 16, line 32 - page 17, line 34; Figure 15).

VII.   GROUNDS OF REJECTION TO BE REVIEWED ON APPEAL

A.   Claims 1-3, 5-18, 22, 25-30, 34-38 and 40 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Dirksen, U.S. Patent No. 6,853,975 in view of Morisawa, U.S. Patent No. 5,537,544.

B.   Claim 4 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Dirksen and Morisawa as applied to claim 1 and further in view of Nagi U.S. Patent No. 6,490,687.

C.   Claims 19, 20, 21, 31, 32 and 33 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Dirksen and Morisawa as applied to claims 1 and 28 above, and further in view of Kane, U.S. Patent No. 6,141,778.

6

D.   Claims 23 and 24 stand rejected under 35 U.S.C. § 103(a) as being

unpatentable over Dirksen and Morisawa as applied to claim 1 above and further in view of

Cohen-Levy, U.S. Patent No. 5,423,034.

E.   Claim 39 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over

Dirksen and Morisawa as applied to claim 28 above and further in view of Pisello, U.S.

Patent No. 5,678,042.

VIII. ARGUMENT

A.   Rejection under 35 U.S.C. § 103(a) over Dirksen, U.S. Patent No.

6,853,975 in view of Morisawa, U.S. Patent No. 5,537,544

Claims 1-3, 5-18, 22, 25-30, 34-38 and 40 were rejected under 35 U.S.C. § 103(a) as

being unpatentable over Dirksen, U.S. Patent No. 6,853,975 in view of Morisawa, U.S.

Patent No. 5,537,544.

1.   Seasonable presentation of Declaration under 37 C.F.R. § 1.131 to

remove Dirksen as a reference.

The 37 C.F.R. § 1.131 Declaration filed on April 12, 2006 and enclosed in the

Evidence Appendix, predates the earliest effective date of November 10, 1999 of U.S. Patent

No. 6,853,975 to Dirksen. MPEP § 715.09 states that

> Affidavits or declarations under 37 C.F.R. § 1.131 must be timely
> presented in order to be admitted. Affidavits and declarations submitted
> under 37 C.F.R. § 1.131 and other evidence traverses rejections are
> considered timely if submitted:

(c)   after final rejection, but before or on the same date of filing an appeal, upon a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented in compliance with 37 C.F.R. § 1.116(e).

The 37 C.F.R. § 1.131 Declaration was seasonably presented after final rejection upon a showing of good and sufficient reasons why the declaration or other evidence is necessary and was not earlier presented. Applicant submits that Applicant had a good and sufficient reason why the Declaration was not earlier presented since the reference being sworn behind, namely U.S. Patent No. 6,853,975 to Dirksen, was not previously used by the Examiner. As such, the Applicant could not earlier present a Declaration to swear behind Dirksen. Therefore, entry of the 37 C.F.R. § 1.131 Declaration is proper. Based upon a conversation initiated by the Examiner, counsel is treating the Rule 131 as of record.

In light of the improper final rejection and the seasonably presented 37 C.F.R. § 1.131 Declaration swearing behind the Dirksen reference, the Examiner has not made a *prima facie* case for rejecting any of the pending claims in the present application. The Examiner implies that certain elements in the supplemental references do not disclose or suggest all elements of the pending claims in the present application without Dirksen. Applicants agree. Thus, without the Dirksen reference available as prior art, the Examiner's rejections are defective and should be withdrawn. A reversal of all rejections is respectfully requested.

The Rule 131 affidavit successfully ante-dates the belatedly cited reference, Dirksen. One of ordinary skill in the art would have understood the present invention from the evidence presented in the § 1.131 Affidavit. Additionally, page 1 Exhibit A of the § 1.131

Affidavit, it states that the document is a "brief explanation of the database structure", not that the document is a full disclosure of the invention. The documents only need to prove conception, not give full disclosure to be effective for ante-dating the reference.

The test for conception is whether the inventor held an idea that was definite enough that one skilled in the art could understand the invention. The idea is considered definite when the inventor has a specific and particular solution to the problem at hand, not just a general or lofty goal or research plan the inventor hopes to pursue. Conception is therefore established when the invention can be reduced to practice without undue experimentation. Citations omitted. See Patent Prosecution, Irah H. Donner 1999, page 208. Appellant submits that surely one of ordinary skill in the computer network distribution and systems art would have been able to reduce the invention to practice without undue experimentation and also understood that the invention is not just a lofty goal after reviewing the document supplied with the § 1.131 Affidavit.

As a result, the § 1.131 Affidavit is effective and the Dirksen reference is an improper reference and should be removed. Therefore, the Examiner's continued rejection should be reversed for this reason alone.

2. Even if Dirksen is not removed as a reference, the 35 U.S.C. § 103(a) rejection is improper.

a. The law of obviousness

A 35 U.S.C. § 103 rejection requires that 1) there must be some suggestion or motivation to enable one of ordinary skill in the art to modify the reference to combine reference teachings, 2) that there must be reasonable expectation of success, and 3) that the prior art references must teach or suggest all the claim limitations of the references. See MPEP 706.02(j). In addition, an Examiner *must* provide evidence of a motivation to combine the references to come up with the claim elements. See In re Kahn, 441 F.3d 977 (Fed. Cir. 2006).

> To establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claimed limitations. The teaching or suggestion to make the claim combination and the reasonable expectation of success must both be found in the prior art and not based on applicant's disclosure.
> MPEP 706.02 (j) citing the case titled In re Vaeck, 947 F.2d 488, 20 U.S.P.Q.2d 1438 (Fed. Cir. 1991).

> The initial burden is on the Examiner to provide some suggestion of desirability of doing what the inventor has done. "To support the conclusion that the claimed invention is directed to obvious subject matter, either the references must expressly or impliedly suggest the claimed invention or the Examiner must present a convincing line of reasoning as to why the artisan would have found the claimed invention to have been obvious in light of the teachings of the references."

Ex parte Clapp, 227 U.S.P.Q. 972, 973 (Bd. Pat. App. & Inter. 1985). See MPEP 706.02(j).

b.   There is no motivation to combine Dirksen and Morisawa

The Examiner states on page 3 of the Final Office Action dated January 12, 2006 that Dirksen does not teach step (b) of claim 1 initializing a set of permissions relative to the password. The Appellant agrees with the Examiner on this point. However, the Examiner goes on to state that Morisawa teaches initializing a set of permissions relative to a password and that it would have been obvious to a person having ordinary skill in the art to modify Dirksen to have a set of permissions relative to the password. The Appellant disagrees with the Examiner on this point.

Per the recent *In re Kahn* Federal Circuit case, the Examiner must provide evidence of a reason to combine the references to create a proper § 103 obviousness rejection. The Court reasons that

> mere identification in the prior art of each element is insufficient to defeat the patentability of the combined subject matter as a whole. Rather, to establish a *prima facie* case of obviousness based on a combination of elements disclosed in the prior art, the Board [the Examiner] must articulate the basis on which it concludes that it would have been obvious to make the claimed invention. In practice, this requires that [the Examiner] 'explain the reasons one of ordinary skill in the art would have been motivated to select the references and to combine them to render a claimed invention obviousness.' This entails consideration of both the 'scope and content of the prior art' and 'level of ordinary skill in the pertinent art' aspects of the *Graham* test.
> When [the Examiner] does not explain the motivation, or suggestion or teaching, that would have led the skilled artisan at the time of the invention to the claimed invention as a whole, we infer that [the Examiner] used hindsight to conclude that the invention was obvious. The 'motivation-suggestion-teaching' requirement protects against the entry of hindsight into the obviousness analysis, a problem which § 103 was meant to confront. *citations omitted.* In re Kahn, 441 F.3d 977, 986 (Fed. Cir. 2006).

11

In this case, the Examiner has simply said that in rejecting claim 1 it would have been obvious to a person of ordinary skill in the art to have modified Dirksen by the teaching of Morisawa because it gives the password a functional range based on the type password. However, Appellant submits that this is contrary to Dirksen. In other words, Dirksen is an internal system for a large business (as indicated by the assignment to Ford Motor Company), where the business is providing a computer system to its own employees. On the other hand, the present application is for an outside company to provide access to a computer system for businesses. Therefore, Dirksen would have no need for different levels of password protection so that different people would be able to perform different functions in the software system.

Simply stating that it would have been obvious to a person having ordinary skill in the art at the time the invention was made to have modified Dirksen by the teaching of Morisawa because it gives the password a functional range based on the type of password is insufficient and ineffective for establishing a *prima facie* case of obviousness. Also, as mentioned above, Dirksen has no need for establishing a hierarchy of passwords because the system is internal for the company so there would be no need for different levels of security to modify and set up system usages as is required by the present application. Furthermore, the Examiner states that column 2, line 57 through column 3, line 3 provides the motivation for one to combine Morisawa and Dirksen. However, the Appellant submits that the cited section of Morisawa and the Summary of the Invention explain that for Morisawa the password hierarchy is for a portable computer system which has one or more passwords unreadable by direct access from

a main processor section. In other words, a main processor can only perform data processing for the portable computer when a password identical to one of the registered passwords is used (i.e. the data processing is restricted for the different passwords). This does nothing to show why this would be combined with a system that is for evaluating or communicating information to employees in a corporation. Therefore, the Examiner has failed to present evidence of a motivation to combine the references to come up with the claim elements as required in the present application. Thus, if Dirksen is used as a prior art reference, which Appellant believes is improper, the Examiner's rejection still fails and should be reversed.

Since, as argued above, the Examiner uses both Morisawa and Dirksen for the rejection of all the independent claims pending in the present application, the Appellant submits that if the combination of Morisawa and Dirksen is improper on one claim, it is improper on all claims. Therefore, Appellant submits that each of the claims under Morisawa and Dirksen fail and should be reversed.

B.   **Claim 4 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Dirksen and Morisawa as applied to claim 1 and further in view of Nagi U.S. Patent No. 6,490,687.**

In light of the foregoing arguments, it is clear that independent claim 1 in this application is allowable. Thus, claim 4, which depends from claim 1 is allowable as depending from an allowable base claim. The Appellant respectfully requests reversing the Examiner's continued rejection of claim 4.

13

C.   Claims 19, 20, 21, 31, 32 and 33 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Dirksen and Morisawa as applied to claims 1 and 28 above, and further in view of Kane, U.S. Patent No. 6,141,778.

In light of the foregoing arguments, it is clear that independent claims in this application are allowable. Thus, dependent claims 19, 20, 21, 31, 32 and 33 are allowable as depending from allowable independent claims. The Appellant respectfully requests reversing the Examiner's continued rejection of these claims.

D.   Claims 23 and 24 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Dirksen and Morisawa as applied to claim 1 above and further in view of Cohen-Levy, U.S. Patent No. 5,423,034.

In light of the foregoing arguments, it is clear that independent claim 1 in this application is allowable. Thus, claims 23 and 24 are allowable as depending from allowable independent claim 2. The Appellant respectfully requests reversing the Examiner's continued rejection of these claims.

E.   Claim 39 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Dirksen and Morisawa as applied to claim 28 above and further in view of Pisello, U.S. Patent No. 5,678,042.

In light of the foregoing arguments, it is clear that independent claim 35 in this application is allowable. Thus, claim 39 is allowable as depending from allowable independent claim 35. The Appellant respectfully requests reversing the Examiner's continued rejection of these claims.

IX.   CONCLUSION

For the above-stated reasons, it is submitted that the claims are in a condition for allowability. The decision of the Examiner, therefore, should be reversed and the case allowed.

Enclosed herein please find the Appeal Brief and required fee of $250. If this amount is not correct, please consider this a request to debit or credit Deposit Account No. 26-0084 accordingly.

Respectfully submitted,

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15

X. APPENDIX - CLAIMS

Claim 1 (Original):   A method of evaluation or assessment of persons, jobs, or employees comprising:

(a)   assigning a password for a respondent;

(b)   initializing a set of permissions relative to the password;

(c)   providing an assessment instrument to a respondent after verification of password;

(d)   receiving responses from the respondent to the assessment instrument;

(e)   processing the responses into an assessment report;

(f)   sending the assessment report to one or more locations authorized by the set of

permissions associated with the password.

Claim 2 (Original):   The method of claim 1 further comprising managing distribution of documents including assessment instruments, over a wide area network.

Claim 3 (Previously presented):   The method of claim 2 wherein the wide area network is a global computer network.

Claim 4 (Original):   The method of claim 1 wherein the password is useable one time and then invalidated.

Claim 5 (Original):   The method of claim 1 wherein the permissions include what can be accessed, opened, or changed.

Claim 6 (Original):   The method of claim 1 wherein the assessment instrument is a survey related to human performance.

Claim 7 (Original):   The method of claim 5 wherein human performance relates to job performance.

Claim 8 (Original):   The method of claim 5 wherein human performance relates to personal performance.

Claim 9 (Original):   The method of claim 1 further comprising assigning a password for one or more other entities.

Claim 10 (Original):   The method of claim 8 wherein the entities are categorized in a hierarchy of different hierarchy levels.

Claim 11 (Previously presented):   The method of claim 10 wherein each hierarchy level has a set of permissions.

Claim 12 (Previously presented):   The method of claim 11 wherein the hierarchy levels range from a higher to a lower hierarchy level, and no set of permissions of a lower hierarchy level is broader than any higher hierarchy level.

Claim 13 (Original):   The method of claim 2 wherein there can be simultaneous access by a plurality of authorized entities.

Claim 14 (Original):   The method of claim 13 further comprising a web site.

Claim 15 (Original):   The method of claim 14 wherein the web site contains an administration site and a survey site.

Claim 16 (Original):   The method of claim 9 wherein a plurality of entities can have simultaneous access.

Claim 17 (Original):   The method of claim 1 wherein the password comprises identifying information and a secured access code.

Claim 18 (Original):   The method of claim 9 wherein the other entities are selected from the set comprising a master distributor, a distributor, a client and a respondent.

Claim 19 (Original): The method of claim 18 wherein the set of permissions associated with a master distributor password include (a) ability to create response links and passwords, (b) ability to set up new accounts, (c) ability to manage reports, (d) ability to change its own and others' account options.

Claim 20 (Original): The method of claim 18 wherein the set of permissions associated with a distributor password include (a) ability to create response links and passwords, (b) ability to set up new accounts, (c) ability to manage reports, (d) ability to change its own account options.

Claim 21 (Original): The method of claim 18 wherein the set of permissions associated with a client include (a) ability to create response links and passwords, (b) ability to manage reports, (c) ability to change account options.

Claim 22 (Original): The method of claim 18 wherein the set of permissions associated with a respondent include (a) respond to an assigned assessment instrument.

Claim 23 (Original): The method of claim 1 wherein the step of sending the reports includes a variety of reporting options.

Claim 24 (Original): The method of claim 23 wherein the variety of options includes (a) to whom the report will be sent, (b) when they will be sent, (c) what will be in the report, (d) what form it will be sent.

Claim 25 (Original): The method of claim 1 wherein the variety of reporting options include (a) an activity report of who responded to assessment instruments, (b) automatic electronic delivery of a report to one or more addresses, (c) sorting capabilities, (d) summarizations.

Claim 26 (Original): The method of claim 1 further comprising changing options for the permissions via the wide area network.

Claim 27 (Original): The system of claim 1 wherein more permissions than are assigned to an entity can not be passed on to another entity.

Claim 28 (Previously presented): A method for managing distribution of assessment documents over a wide area comprising:

(a) providing an assessment instrument for completion by respondents;

(b) assigning a password for an entity having a level of rights;

(c) initializing permissions relative to the password based on the level of rights for the entity, said permissions including at least one respondent password having permissions based on the level of rights for a respondent;

(d)   allowing the entity access to a web site on a global computer network and enabling the initialized permissions for the entity;

(e)   providing an assessment instrument to the respondent which gauges an individual potential employee's suitability with regards to a particular job, an individual existing employee's suitability or performance with regards to a particular job, or an individual boss's performance with regards to a particular job;

(f)   receiving responses from the respondent to the assessment instrument;

(g)   processing the responses into an assessment report;

(h)   sending the assessment report to one or more locations authorized by the permissions.

Claim 29 (Original):   The method of claim 26 wherein the set of permissions for a given level of rights can not be exceeded by a password associated with a lesser level of rights.

Claim 30 (Original):   The method of claim 27 further comprising four levels of rights, namely, master distributor, distributor, client, and respondent.

Claim 31 (Original):   The method of claim 28 wherein the permissions associated with a master distributor level of rights include (a) ability to create response links and passwords, (b) ability to set up new accounts, (c) ability to manage reports, (d) ability to change its own and others' account options.

Claim 32 (Original): The method of claim 28 wherein the permissions associated with a distributor level of rights include (a) ability to create response links and passwords, (b) ability to set up new accounts, (c) ability to manage reports, (d) ability to change its own account options.

Claim 33 (Original): The method of claim 28 wherein the permissions associated with a client level of rights include (a) ability to create response links and passwords, (b) ability to manage reports, (c) ability to change account options.

Claim 34 (Original): The method of claim 28 wherein the permissions associated with a respondent level of rights include (a) respond to an assigned assessment instrument.

Claim 35 (Previously presented): A system for managing assessments comprising:

(a) a plurality of terminals each adapted to access a wide area network;

(b) a central server;

(c) software associated with the central server which administers a web site and which provides permissions;

(d) a password having a set of permissions correlated to a respondent for an assessment survey which gauges an individual potential employee's suitability with regards to a particular job, an individual existing employee's suitability or performance, with

22

regards to a particular job, or an individual boss's performance with regards to a particular job;

(e)   a password having a set of permissions correlated to an entity interested in the respondent's responses to the assessment survey specifics.

Claim 36 (Previously presented):   The system of claim 35 wherein the assessment relates to job or personal performance of a human.

Claim 37 (Previously presented):   The system of claim 35 wherein the assessment survey is electronic in nature or is hard copy in nature.

Claim 38 (Previously presented):   The system of claim 35 wherein the report is electronic in nature or is hard copy in nature.

Claim 39 (Previously presented):   The system of claim 35 wherein the set of permissions can vary from password to password.

Claim 40 (Previously presented):   A method of evaluation or assessment of persons, jobs, or employees comprising:

(a)   assigning a password for a respondent;

(b)   initializing a set of permissions relative to the password;

(c)   providing an assessment instrument which gauges an individual potential employee's suitability with regards to a particular job, an individual existing employee's suitability or performance with regards to a particular job, or an individual boss's performance with regards to a particular job to a respondent after verification of password;

(d)   receiving responses from the respondent to the assessment instrument;

(e)   processing the responses into an assessment report;

(f)   sending the assessment report to one or more locations authorized by the set of permissions associated with the password.

XI. EVIDENCE APPENDIX

37 C.F.R. § 1.131 Declaration and accompanying documents filed April 12, 2006

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICANT:	**BONNSTETTER**, Bill J. et al.
SERIAL NO:	09/760,145
FILED:	January 12, 2001
TITLE:	NETWORK BASED DOCUMENT DISTRIBUTION METHOD

Art Unit:	2152
Examiner:	MOORTHY, Aravind K.
Confirmation No:	2367
Docket No:	P04361US01

DECLARATION OF PRIOR INVENTION IN THE UNITED STATES TO OVERCOME CITED PATENT FOR PUBLICATION (37 C.F.R. § 1.131)

COMMISSIONER FOR PATENTS
Mail Stop AF
P. O. Box 1450
Alexandria, VA 22313-1450

Dear Commissioner:

1.   This Declaration is to establish completion of the invention in this application in the United States at a date prior to November 10, 1999, the earliest filing date of cited U.S. Patent No. 6,853,975 to inventors Dirksen et al., presented by the Examiner for the first time in the Final Rejection of January 12, 2006.

2.   The persons making this Declaration are the named inventors of Serial No. 09/760,145.

3.   The Assignment is recorded at Reel 011799, frame 0047 dated May 11, 2001.

4. To establish the date of invention of this application, the following attached documents are submitted as evidence:

Exhibit A: Document titled DBNotes.txt

Exhibit B: A screen print of the folder containing the file of Exhibit A, the date of which is blocked out, but which is earlier than November 10, 1999.

5. From these documents, all of which were created and in existence and made in the Unites States of America prior to November 10, 1999, it can be seen that the invention defined in this application was conceived prior to the November 10, 1999, filing date of Dirksen.

6. From the time of conception to a time just prior to the effective filing date of the reference, the inventors diligently worked towards filing of the application identified in the caption of this Declaration.

7. The present application relies on a provisional application filing date of January 14, 2000, which is only a few weeks after the earliest filing date of the reference, evidencing that the work on the invention was done much earlier. Our inventors records indicate we took this information on conception and reduction to practice to our patent attorney, Mark Hansing on October 15, 1999, which is also prior to Dirksen.
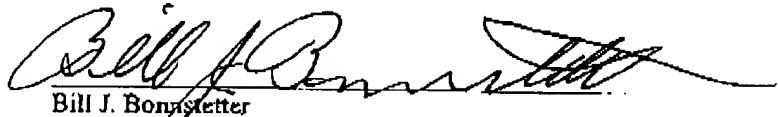
8. The document of Exhibit A is shown to prove conception of the present invention prior to November 10, 1999 by briefly mentioning elements a-f of claim 1 of the present application. Each element a-f of claim 1 is noted as a-f in the left margin on Exhibit

A, which elements have been added to the attached copy for purposes of this declaration. Exhibit A is otherwise original.

I hereby declare that all statements made herein of my own knowledge are true, and that all statements made on the information and belief are believed to be true; and further that these statements were made with the knowledge that the willful false statements and the like so made are punishable by fine or imprisonment, or both, under § 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application, any patent issuing thereon, or any patent to which this verified statement is directed.
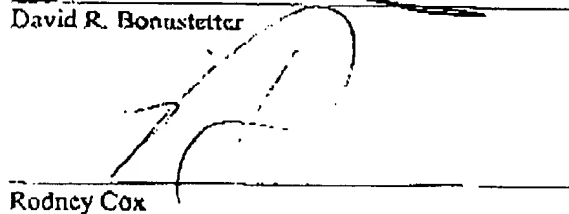
Date: 4-12-06

Bill J. Bonnstetter

Date: 4/12/06

David R. Bonnstetter

Date: 4/12/06

Rodney Cox

3

Here is a brief explanation of the database structure:

(See Prototype.mdb/tools/relationships)

User Accounts:

The Account, AcctOptions and AcctTag tables encapsulate the data for an administrative account. This includes all levels of users except the person who responds to an instrument.

The information in AcctOptions is broken off from Account just to make the record a little neater. Also, we probably will have others tables such as AcctReportOptions, and maybe others.

(a) The AccountID is the unique (internal) identifier for each user. LoginName and Password are what they actually type in to log in.

(b) The OwnerID and ParentID situate each user in the hierarchical tree.

Experiences (Links)

The Experience table encapsulates the information for each link setup. (We decided on 'experience' rather than 'link' to let link refer to actual web links. The ExperienceDNAInfo table is just extra information that we will need for a DNA type of experience. We may need other such tables for other types of experiences.

(c) The ExperienceID is the unique number for each experience. The AccountID links the experience to the user account.

The ExpRptView table links each experience with one or more report views to be linked to by the experience.

The ExperienceDNAInfo contains auxiliary information pertinent to the DNA process.

We might end up with other supplementary information linked to the Experience information.

Reports and Report Views

The ReportView table is static information and each record defines a single report 'view'. We decided on this term to indicate the actual printed form of a report. Thus, the Style Analysis instrument can produce several 'report views', while Style Analysis results would be considered the 'report'.

The ReportViewDef is a memo field that contains the 'script' for the report. In our first go, it will be Dave's current data for each report. That's why a report view must be defined for each language, since they are actually different reports. The ReportViewVer number indicates the version of scripting so that if we come up with a better way to define the report, we can mix old and new ways.

(d)
(e) The Report and Responses table contain the results of each respondent's responses for each link in the experience. The reason we separated into two tables is to handle the case of 360 type reports, where the 'report' is acually the summary of several responses. In fact, we conceived EVERY report as being a 360 type report with most cases having only one reponse (the Self.)

The RaterCategory table contains descriptions of the types of raters for 360 type reports
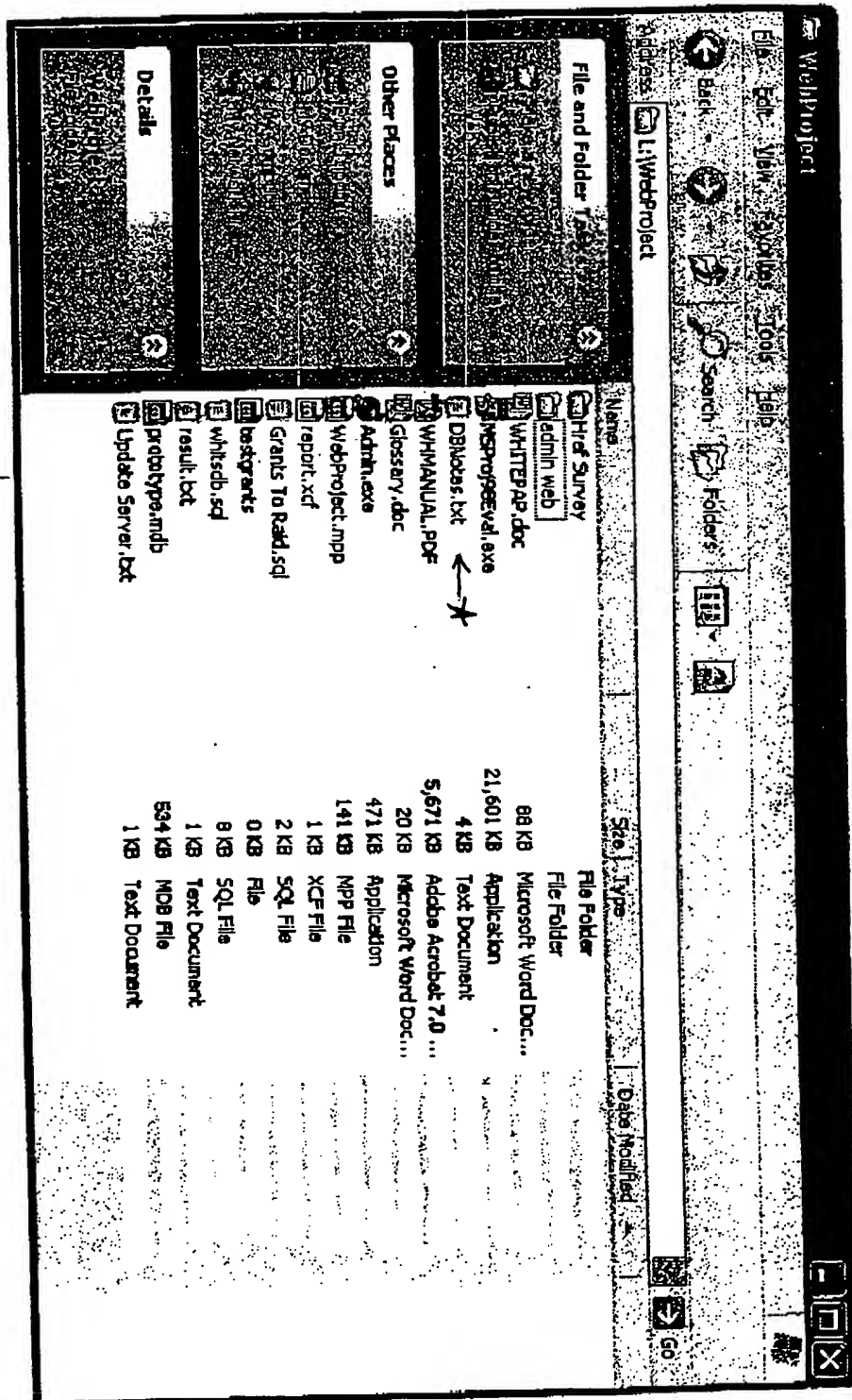
The Respondent table provides information, on a user account level of those who have/will be the subjects of experiences. They may be anonymous or pre-defined (or post-defined!)

(f) The ReportsPrinted table creates a record for each printing of a report view. These may or may not be charged, based on policies.

Instrument Collection / Instrument

The InstrumentCollection table is a container for what we usually call an instrument. This is because some report 'instruments' are actually a combination of individual instruments, some of which are mandatory or optional. So this table contains this definition and information, using our XML scripting method.

The Instrument table defines a single instrument (or even section of an instrument) for use by the InstrumentColletion. The 'script' in InstrumentDef drives the engine that presents the survey to the respondent.

WebProject

File Edit View Favorites Tools Help

Back · Search · Folders · ▦▾

Address L:\WebProject   Go

File and Folder Tasks »

Other Places »

Details »

Name	Size	Type	Date Modified
admin web		File Folder	
Hird Survey		File Folder	
WHITEPAP.doc	88 KB	Microsoft Word Doc...	
MSProj96Eval.exe	21,601 KB	Application	
DBNotes.txt	4 KB	Text Document	
WHMANUAL.PDF	5,671 KB	Adobe Acrobat 7.0 ...	
Glossary.doc	20 KB	Microsoft Word Doc...	
Admin.exe	473 KB	Application	
WebProject.mpp	141 KB	MPP File	
report.xcf	1 KB	XCF File	
Grants To Raid.sql	2 KB	SQL File	
testgrants	0 KB	File	
whitedb.sql	8 KB	SQL File	
result.txt	1 KB	Text Document	
prototype.mdb	534 KB	MDB File	
Update Server.txt	1 KB	Text Document	

XII. RELATED PROCEEDING APPENDIX

None